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Court File No.: T-306-22

FEDERAL COURT

BETWEEN:

CANADIAN FRONTLINE NURSES and KRISTEN NAGLE

Applicants/Moving Parties

and

ATTORNEY GENERAL OF CANADA

Respondent/Responding Party

MOTION RECORD OF THE APPLICANTS

Date: Friday, February 18, 2022

Alexander Boissonneau-Lehner

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AND TO: **THE ATTORNEY GENERAL OF CANADA**
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Court File No.: T-306-22

FEDERAL COURT

BETWEEN:

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Applicants/Moving Parties

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Respondent/Responding Party

NOTICE OF MOTION

TAKE NOTICE THAT the Applicants, Canadian Frontline Nurses and Kristen Nagle, will make an urgent motion to the Federal Court on a date and time to be set by the Court, at 180 Queen Street West, Toronto, Ontario.

THE MOTION IS FOR

1. The appointment of urgent special hearing dates for the hearing of this motion and the Applicants' application before this Court.
2. An Order abridging the time for filing and service of this Notice of Motion and supporting material herein and relieving the Applicant from compliance with Rules 364 and 366 on the basis of urgency.

3. A temporary interlocutory order staying Order in Council PC Number: 2022-106 proclamation of a public order emergency issued February 14, 2022 (the “Public Order Emergency Proclamation”) pursuant to section 17(1) of *Emergencies Act*, RSC 1985, c 22 (4th Supp) (the “*Emergencies Act*”) and regulations, orders or other measures issued or implemented pursuant to the Public Order Emergency Proclamation until the Applicants’ Judicial Review Application is heard on its merits.
4. Costs of this Motion on a substantial indemnity basis or in an amount that provides full indemnity.
5. Such further and other relief as counsel may advise and this Honourable Court deem just.

THE GROUNDS FOR THE MOTION ARE:

Background

6. The Applicant, Canadian Frontline Nurses (“CFN”), is a not-for-profit corporation duly incorporated under the *Canada Not-for-profit Corporations Act*.
7. The Applicant, Kristen Nagle (“Nagle”), is a Canadian citizen residing in Ontario.
8. The Applicants are supporters and participants in the protest movement known as “Freedom Convoy 2022” protest in Ottawa.
9. The Respondents are the Governor in Council, the Privy Council, and Her Excellency the Governor General in Council, all acting on behalf of Her Majesty the Queen (in right of

Canada), and all represented by the named Respondent, the Attorney General of Canada.

10. The Applicants' support of and peaceful participation in the Freedom Convoy 2022 protest in Ottawa are exercises of the Applicants' rights of expression, conscience, peaceful assembly, and association guaranteed by the *Charter* and *Canadian Bill of Rights*.
11. On February 14, 2022, the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, directed that a proclamation be issued directing that a public order emergency exists throughout Canada and necessitates the taking of special temporary measures for dealing with the emergency.
12. On February 15, 2022, the Governor General in Council issued P.C. 2022-107, the *Emergency Measures Regulations* and P.C. 2022-108, the *Emergency Economic Measures Order*, pursuant to the Public Order Emergency Proclamation.
13. Sections 2, 4, and 5 of *Emergency Measures Regulations* prohibit persons from, amongst other things:
 - (a) Participating in or travelling to or within an area where "a public assembly that may reasonably be expected to lead to a breach of the peace" by causing a "serious disruption of the movement of persons or goods or the serious interference with trade"; and
 - (b) Directly or indirectly, using, collecting, providing, making available or inviting a person to provide property to facilitate or participate in a public assembly that may

reasonably be expected to lead to a breach of the peace by causing a serious disruption of the movement of persons or goods or the serious interference with trade.

14. The *Emergency Economic Measures Order* defines an individual or entity that is engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the *Emergency Measures Regulations* as a “designated person”. The *Emergency Economic Measures Order* requires financial institutions and entities to cease from:

- (c) dealing in any property, wherever situated, that is owned, held or controlled, directly or indirectly, by a designated person or by a person acting on behalf of or at the direction of that designated person;
- (d) facilitating any transaction related to a dealing referred to in paragraph (a);
- (e) making available any property, including funds or virtual currency, to or for the benefit of a designated person or to a person acting on behalf of or at the direction of a designated person; or
- (f) providing any financial or related services to or for the benefit of any designated person or acquire any such services from or for the benefit of any such person or entity.

This Court Has Jurisdiction to Grant an Interim Stay

15. On an application for judicial review, this Court has authority under Section 18.2 of the *Federal Courts Act* to make any interim orders it considers appropriate pending the final disposition of the application.

16. On February 17, 2022 the Applicants filed a Notice of Application (the “Application”) with this Court for judicial review of the Public Order Emergency Proclamation.

17. Paragraph 7 of the Application seeks:

An interim stay of the Public Order Emergency Proclamation and any regulations, orders or other measures issued or implemented pursuant to the Public Order Emergency Proclamation until this Judicial Review Application is heard on its merits.

18. This motion seeks the relief set out at Paragraph 7 of the Application on an urgent basis.

The Interim Stay Should Be Granted

19. It is appropriate for this Court to make an interim order staying the Public Order Emergency Proclamation and any regulations, orders, or other measures issued or implemented pursuant to the Public Order Emergency Proclamation until the Application is heard on its merits on an urgent basis because:

- (a) the Application raises serious issues to be tried on the merits;
- (b) the Applicants will suffer irreparable harm if an Order for an interim stay does not issue; and
- (c) the balance of convenience favours granting the injunction.

There are Serious Issues to be Tried

20. The determination of whether there is a serious issue to be tried is a low threshold: the

threshold merely requires that the Application be neither vexatious nor frivolous.

21. The Application is neither frivolous nor vexatious. It raises serious issues that are of fundamental importance to the Applicants and Canadian society at large, and that require judicial determination and including:

(g) whether the Public Order Emergency Proclamation is unlawful and *ultra vires* because there is no “national emergency” or “public order emergency” as defined in the *Emergencies Act*;

(h) whether the Public Order Emergency Proclamation and the regulations and orders that have issued pursuant thereto constitutes:

- i. a violation of the rights and freedoms of the supporters of the Freedom Convoy 2022 movement, Canadians generally, and the Applicants, in particular those rights guaranteed under section 2 of the *Charter* including freedom of conscience; freedom of thought, belief, opinion and expression; freedom of peaceful assembly; and freedom of association.
- ii. a violation of the rights and freedoms of the supporters of the Freedom Convoy 2022 movement, Canadians generally, and the Applicants, in particular those rights guaranteed under section 1 of the *Canadian Bill of Rights* particularly, the security and enjoyment of property and the right not to be deprived thereof except by due process of law, but also freedom of speech, freedom of assembly and association.

The Applicants Will Suffer Irreparable Harm

22. The Applicants are peaceful participants in the Freedom Convoy 2022 protest in Ottawa.
23. As a result of the Applicants participation in the Freedom Convoy 2022 protest in Ottawa, the Applicants are being deprived of the right of enjoyment to property without due process of law in breach of the *Canadian Bill of Rights* (which the *Emergencies Act* is expressly subject to.)
24. The *Emergency Economic Measures Order* requires financial institutions to deprive participants or supporters of those in the Freedom Convoy 2022 Protest of their property with complete disregard for the due process of law. The Government has not provided any description or parameter for whose property may be frozen.
25. Pursuant to the *Emergency Economic Measures Order*, participants in the Freedom Convoy 2022 protest in Ottawa have had their accounts frozen without due process of law.
26. The Deputy Prime Minister announced on February 17, 2022 that the accounts and crypto wallets information of individuals and entities have been shared by the RCMP with financial institutions and more accounts will be frozen.
27. The *Emergency Economic Measures Order* provides financial service providers who have frozen accounts with immunity from civil proceedings for complying with the Order, and do not provide the Applicants any judicial or other lawful recourse to access their funds

once they have been deprived of same. The harm inherent in not being able to access funds and the deprivation of the right to enjoyment of property is therefore irreparable.

28. An inability to access funds entails a corresponding inability to access the necessities of life.

29. The personal Applicant, Kristen Nagle, cannot exercise her rights guaranteed under the *Charter* and the *Bill of Rights* to peacefully express her political opinions, exercise her freedom of conscience in the manner she has chosen, and peacefully assemble and associate in the manner, time and location she has deemed integral to her political beliefs if her health is seriously compromised or she dies as a result of not being able to access the necessities of life.

30. The deprivation of security of life and the loss of opportunity to express political opinions, thoughts, and beliefs, exercise freedom of conscience, and to peacefully assemble and associate with the Freedom Convoy 2022 movement in Ottawa are intangible harms that cannot be quantified or compensated for and should, therefore, be assumed to be irreparable.

Balance of Convenience

31. The balance of convenience favours granting the interim relief on the basis that the public interest is best served by the protection of the rights and freedoms guaranteed by the *Charter* and the *Canadian Bill of Rights*.

32. The Applicants' support of and participation in the Freedom Convoy 2022 protests in Ottawa does not constitute a public order emergency or a national emergency.
33. The Applicants' support of and participation in the Freedom Convoy 2022 protests in Ottawa pose no threat to public health, safety, or security.
34. There is no evidence that justifies the Emergency Public Order Proclamation and the extraordinary measures imposed in light of the current circumstances.
35. There is no public order emergency or national emergency as defined in the *Emergencies Act*.
36. The provincial and federal authorities have the capacity and the ability to deal with any threat to public health, safety, or security that may arise under and any mischief that the Respondent may wish to address under the laws of Canada that existed prior to the Emergency Public Order Proclamation.
37. The interests of the Applicants outweigh interests that the Respondents have with respect to freezing financial assets or property of the Applicants, the supporters of the Freedom Convoy 2022, and Canadians generally.
38. The interim stay would not prevent the RCMP, OPP, or Ottawa Police from managing the Ottawa protests using existing laws, including those under the *Criminal Code*.

Abridgment of Time and Relief from Strict Compliance with the Rules

39. It is in the interests of justice to abridge the time for service and filing of the Notice of Motion and supporting materials in this case, because the delay caused by strict compliance with the ordinary timelines would cause the very harm that this motion seeks to avert.

40. The present circumstances are clearly exigent and of significant and urgent importance to the parties and Canadian society at large.

Statutory Provisions and Rules Relied Upon

41. Rules 3. 8(1), 35(2), 55 of the *Federal Courts Rules*, SOR/98-106.

42. Section 18.2 of the *Federal Courts Act*, RSC 1985, c F-7 (the “*Federal Courts Act*”).

43. Sections 2(a), 2(b), 2(c) and 2(d) of Part I of the *Constitution Act, 1982*. Canadian Charter of Rights and Freedoms, s 7, Part 1 of the *Constitution Act, 1982*, being Schedule B to the Canada Act 1982 (UK) (the “*Charter*.”)

44. Paragraphs 1 (a), (b), (d), and (e) of the *Canadian Bill of Rights*, SC 1960, c 44 (the “*Canadian Bill of Rights*”).

45. Section 52 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c.11.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- 46. The Affidavit of Kristen Nagle to be sworn.
- 47. The Affidavit of Simon Sigler sworn February 18, 2022;
- 48. The Notice of Application filed in these proceedings; and
- 49. Such further and other documentary evidence as counsel may advise.

February 18, 2022



Alexander Boissonneau-Lehner

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Court File No.: T-306-22

FEDERAL COURT

BETWEEN:

CANADIAN FRONTLINE NURSES AND KRISTEN NAGLE

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF KRISTEN NAGLE

I, Kristen Nagle, Registered Nurse and director and member of Canadian Frontline Nurses, of the City of London, Ontario SWEAR THAT:

1. I am an Applicant in these proceedings and as such have personal knowledge of the facts and matters hereinafter deposed to save and except where same are stated to be based upon information or belief and where so stated I verily believe the same to be true.
2. The co-Applicant, Canadian Frontline Nurses, is a registered not-for-profit corporation. Canadian Frontline Nurses is a proud advocate of medical freedom and its mission is to unite nurses across Canada, educate the public and ensure that Canadian healthcare reflects the highest ethical standards.
3. Attached and marked as Exhibit “A” is a copy of the Certificate of Incorporation for Canadian Frontline Nurses.

4. I personally support the peaceful Freedom Convoy 2022 protests in Ottawa and its objectives. So does Canadian Frontline Nurses as an organization.
5. I am opposed to unreasonable COVID-19 related mandates and restrictions that have been implemented by various levels of Canadian governments.
6. I unequivocally do not support violence. Neither does Canadian Frontline Nurses. We denounce violence and do not view violence as a legitimate means of expression or as a means of achieving one's political ends.
7. I have not witnessed nor am I aware of any violence in connection with the Freedom Convoy 2022 protests in Ottawa.
8. As of the time of my swearing this affidavit, Canadian Frontline Nurses is a peaceful participating group in the Freedom Convoy 2022 protests.
9. As of the time of my swearing this affidavit, I am personally peacefully participating, in the Freedom Convoy 2022 protests in Ottawa. Over the course of the Freedom Convoy 2022 protest in Ottawa, I have made speeches and other peaceful expressions of my opinions, beliefs, and values.
10. On February 17, 2022, I was advised by several peaceful participants in the Freedom Convoy 2022 protests in Ottawa that their bank accounts were frozen after the *Emergencies Act* was invoked.

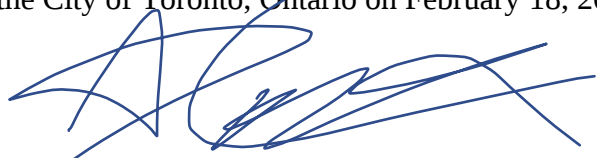
11. Canadian Frontline Nurses has property stored at financial institutions. Canadian Frontline Nurses needs access to funds stored at financial institutions to support its mission.

12. I personally have money stored at financial institutions. I also have credit cards.

13. I need access to funds to secure necessities of life for myself and my family.

14. I wish and intend to continue to peacefully express my opinions, beliefs, and values in the Freedom Convoy 2022 protests in Ottawa, but cannot conceive how I will be physically able to do so if I am prevented from receiving or indirectly receiving support and access funds, or directly or indirectly receive support, that are necessary to maintain life.

Sworn before me remotely by Kristen Nagle, who is in the City of Ottawa, Ontario before me in the City of Toronto, Ontario on February 18, 2022.

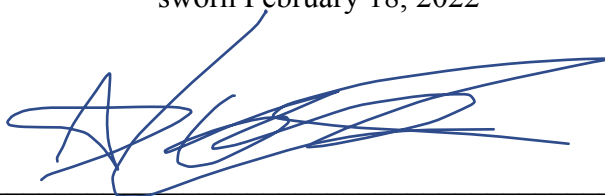


Alexander Boissonneau-Lehner
Commissioner for Taking Affidavits
(or as the case may be)



KRISTEN NAGLE

This is Exhibit "A" to the Affidavit of Kristen Nagle
sworn February 18, 2022



Commissioner for Taking Affidavits (or as may be)

Alexander Boissonneau-Lehner



Certificate of Incorporation

Canada Not-for-profit Corporations Act

Certificat de constitution

*Loi canadienne sur les organisations à but non
lucratif*

Canadian Frontline Nurses

Corporate name / Dénomination de l'organisation

1290156-1

Corporation number / Numéro de
l'organisation

I HEREBY CERTIFY that the above-named corporation, the articles of incorporation of which are attached, is incorporated under the *Canada Not-for-profit Corporations Act*.

JE CERTIFIE que l'organisation susmentionnée, dont les statuts constitutifs sont joints, est constituée en vertu de la *Loi canadienne sur les organisations à but non lucratif*.

Raymond Edwards

Director / Directeur

2021-04-06

Date of Incorporation (YYYY-MM-DD)
Date de constitution (AAAA-MM-JJ)



Form 4001
Articles of Incorporation
Canada Not-for-profit Corporations
Act (NFP Act)

Formulaire 4001
Statuts constitutifs
Loi canadienne sur les
organisations à but non lucratif
(Loi BNL)

1	Corporate name Dénomination de l'organisation Canadian Frontline Nurses
2	The province or territory in Canada where the registered office is situated La province ou le territoire au Canada où est maintenu le siège ON
3	Minimum and maximum number of directors Nombres minimal et maximal d'administrateurs Min. 1 Max. 10
4	Statement of the purpose of the corporation Déclaration d'intention de l'organisation To unite nurses across Canada and bring the ethics back into healthcare.
5	Restrictions on the activities that the corporation may carry on, if any Limites imposées aux activités de l'organisation, le cas échéant None
6	The classes, or regional or other groups, of members that the corporation is authorized to establish Les catégories, groupes régionaux ou autres groupes de membres que l'organisation est autorisée à établir See attached schedule / Voir l'annexe ci-jointe
7	Statement regarding the distribution of property remaining on liquidation Déclaration relative à la répartition du reliquat des biens lors de la liquidation See attached schedule / Voir l'annexe ci-jointe
8	Additional provisions, if any Dispositions supplémentaires, le cas échéant None
9	Declaration: I hereby certify that I am an incorporator of the corporation. Déclaration : J'atteste que je suis un fondateur de l'organisation.

Name(s) - Nom(s)

Original Signed by - Original signé par

Kristen Marie Nagle

Kristen Marie Nagle

Kristen Marie Nagle

Sarah Anahid Choujounian

Sarah Anahid Choujounian

Sarah Anahid Choujounian

A person who makes, or assists in making, a false or misleading statement is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both (subsection 262(2) of the NFP Act).

La personne qui fait une déclaration fausse ou trompeuse, ou qui aide une personne à faire une telle déclaration, commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 5 000 \$ et un emprisonnement maximal de six mois ou l'une de ces peines (paragraphe 262(2) de la Loi BNL).

You are providing information required by the NFP Act. Note that both the NFP Act and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la Loi BNL. Il est à noter que la Loi BNL et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.

Schedule / Annexe
Classes of Members / Catégories de membres

The corporation is authorized to establish Class A members and Class B members as follows:

- (1) The Class A members shall be entitled to receive notice of and to attend all meetings of the members of the Corporation and each Class A member shall have one (1) vote at each such meeting, except for meetings at which only members of another class are entitled to vote separately as a class.
- (2) Except as otherwise provided by the Canada Not-for-Profit Corporations Act, S.C. 2009, c.23 the Class B members shall not be entitled to receive notice of, attend or vote at meetings of the members of the Corporation.

Schedule / Annexe**Distribution of Property on Liquidation / Répartition du reliquat des biens lors de la liquidation**

Any property remaining on liquidation of the Corporation, after discharge of liabilities, shall be distributed to one or more qualified donees within the meaning of subsection 248(1) of the Income Tax Act.

Court File No.: T-306-22

FEDERAL COURT

BETWEEN:

CANADIAN FRONTLINE NURSES AND KRISTEN NAGLE

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

AFFIDAVIT OF SIMON SIGLER

I, Simon Sigler, a barrister and solicitor at the firm of Johnstone & Cowling LLP, of the City of Toronto, Ontario **SWEAR THAT:**

1. I am a lawyer at Johnstone & Cowling LLP and as such have personal knowledge of the facts and matters hereinafter deposed to save and except where same are stated to be based upon information or belief and where so stated I verily believe the same to be true.
2. On February 18, 2022, I listened to a recording of Deputy Prime Minister Chrystia Freeland, Minister of Public Safety Marco Mendicino, and Minister of Emergency Preparedness Bill Blair's news conference of February 17, 2022 (the "News Conference Recording").

3. The News Conference Recording is accessible on CPAC's website at the following URL as of the time of my swearing of this Affidavit: <https://www.cpac.ca/episode?id=f0a535d7-568f-47c5-9653-bd7755732811>.
4. I am advised by Alexander Lehner-Boissonneau, a barrister and solicitor at Johnstone & Cowling LLP, that our firm has started to prepare, with the assistance of Otter.ai, a Cloud-based transcription software, a transcript of the News Conference Recording (the "Transcript"). I am advised by Mr. Lehner-Boissonneau that our firm will make best efforts to have this transcript available at the hearing of the motion.
5. I am informed by my review of the News Conference Recording that the Deputy Prime Minister Chrystia Freeland made the following remarks to the media on February 17, 2022:
 - (a) I have spoken directly with the heads of our major banks and with the director of FINTRAC. My Cabinet colleagues and I are meeting regularly, very regularly, including with the commissioner of the RCMP to discuss next steps. Our absolute priority is ending these illegal blockades and occupation.
 - (b) The measures we enacted include broadening the scope of Canadian rules to fight money laundering and terrorism financing so that it includes social financing platforms and various financial transaction institutions. It will also enable them to report suspicious and other activities to FINTRAC and it will help put an end to this it will request require rather that financial institutions we assess reassess their links with all persons involved in blockades and inform our national security

organizations. They will also allow our institutions of the federal government, provincial and territorial governments as well to communicate information to banks and financial services providers. This will enable them to put an end to funding and financing to unlawful blockades.

(c) So let me repeat what I said on Monday. If your truck is being used in these protests, your corporate accounts will be frozen. The insurance on your vehicle will be suspended. The consequences are real. And they will bite. It is time for you to go home. And let me also be clear that we will have the zero tolerance for the establishment of new blockades or occupations. We now have the tools to follow the money. We can see what is happening and what is being planned in real time. And we are absolutely determined that this must end now and for good.

(d) I have those numbers [accounts either personal or corporate that are being targeted] here in front of me, and they were reviewed just last night by me and Minister Mendicino, Minister Blair, the Prime Minister and Minister Lametti .But I'm not going to share them with you right now because operational actions are being taken. And we want to be very, very careful not to jeopardize those operational actions. But I do want to assure you and through you, all Canadians, that action is being taken we are seeing it, and that action is going to increase in the coming days.

(e) [In response to the following question from a reporter: *Okay, so my follow up is in two parts then so you're confirming that accounts have been frozen, both personal*

and corporate, but you're not releasing the information and the actual follow up is I'm just wondering whether the bank accounts will be targeted of individuals who donated to the GiveSendGo and the GoFundMe campaigns are being considered designated pull under the emergencies act, meaning that their credit cards could be cut and financial services are targeting them as well.]

Okay, so names of both individuals and entities, as well as crypto wallets have been shared by the RCMP with financial institutions, and accounts have been frozen and more accounts will be frozen, a crowdfunding platforms and payment service providers have started the registration process with FINTRAC. In terms of the specifics on whose accounts are being frozen, you now have the regulations, the financial service providers have those regulations as well, and they working with law enforcement will be making the operational decisions. But I do want to say really clearly to Canadians, we have now outlined with great clarity that these blockades and occupations are illegal. It is now time for people to go home to take their trucks home and to start funding illegal blockades and occupations.

- (f) The *Emergencies Act* has compelled financial service providers to take these actions and we have provided them with immunity for actions undertaken in good faith under these measures those are two important facts. The financial service providers have a stake in Canada and the Canadian economy and they are a really important institutional pillar of Canada. They are as they are legally obliged to do. Collaborating properly and effectively with the RCMP with laws and with law enforcement. In terms of disclosing specifics all of us had a conversation yesterday

with law enforcement about out and there was a clear view that it's important right now, not to in any way jeopardize the very important work law enforcement is taking. And that's why I'm not disclosing the specifics. Let me assure you, those details will be disclosed in due course and soon. And I want you to know it is happening. I do have the numbers in front of me. And I do particularly want people who are participating in illegal blockades and an illegal occupation to know these measures are real. They are being used, they will have an impact. And there is a real easy way to avoid being affected by these measures. And that is just go home. Go back to work.

6. Our firm has obtained true copies of the following documents from the Privy Council's Office:

- (a) Order in Council PC Number 2022-106 proclamation of a public order emergency issued February 14, 2022, Order in Council PC Number 2022-107;
- (b) *Emergency Measures Regulations* dated February 15, 2022, and
- (c) Order in Council PC Number 2022-108, *Emergency Economic Measures Order* dated February 15, 2022

which are attached hereto and marked as Exhibits "A", "B", and "C", respectively.

SWORN BEFORE ME at the City of Toronto, Ontario, on February 18, 2022.



SIMON SIGLER



Alexander Boissonneau-Lehner
Commissioner for Taking Affidavits, etc.

Court File No.: T-306-22

FEDERAL COURT

BETWEEN:

**CANADIAN FRONTLINE NURSES
and KRISTEN NAGLE**

APPLICANTS/MOVING PARTIES

- and -

ATTORNEY GENERAL OF CANADA

RESPONDENT

AFFIDAVIT OF SIMON SIGLER

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Solicitors for the Moving Party/Applicants

This is Exhibit "A" to the Affidavit of Simon Sigler
sworn February 18, 2022.

A handwritten signature in blue ink, appearing to be "Simon Sigler", written over a horizontal line.

Commissioner for Taking Affidavits (or as may be)



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

P.C. 2022-106
February 14, 2022

Whereas the Governor in Council believes, on reasonable grounds, that a public order emergency exists and necessitates the taking of special temporary measures for dealing with the emergency;

And whereas the Governor in Council has, before declaring a public order emergency and in accordance with subsection 25(1) of the *Emergencies Act*, consulted the Lieutenant Governor in Council of each province, the Commissioners of Yukon and the Northwest Territories, acting with consent of their respective Executive Councils, and the Commissioner of Nunavut;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 17(1) of the *Emergencies Act*, directs that a proclamation be issued

(a) declaring that a public order emergency exists throughout Canada and necessitates the taking of special temporary measures for dealing with the emergency;

.../2

- 2 -

(b) specifying the emergency as constituted of

(i) the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,

(ii) the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,

(iii) the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States, that are detrimental to the interests of Canada,

(iv) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and

(v) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians; and

.../3

- 3 -

(c) specifying that the special temporary measures that may be necessary for dealing with the emergency, as anticipated by the Governor in Council, are

(i) measures to regulate or prohibit any public assembly — other than lawful advocacy, protest or dissent — that may reasonably be expected to lead to a breach of the peace, or the travel to, from or within any specified area, to regulate or prohibit the use of specified property, including goods to be used with respect to a blockade, and to designate and secure protected places, including critical infrastructure,

(ii) measures to authorize or direct any person to render essential services of a type that the person is competent to provide, including services related to removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade anywhere in Canada, to relieve the impacts of the blockades on Canada's public and economic safety, including measures to identify those essential services and the persons competent to render them and to provide reasonable compensation in respect of services so rendered,

.../4

- 4 -

(iii) measures to authorize or direct any person to render essential services to relieve the impacts of the blockade, including measures to regulate or prohibit the use of property to fund or support the blockade, to require any crowdfunding platform and payment processor to report certain transactions to the Financial Transactions and Reports Analysis Centre of Canada and to require any financial service provider to determine whether they have in their possession or control property that belongs to a person who participates in the blockade,

(iv) measures to authorize the Royal Canadian Mounted Police to enforce municipal and provincial laws by means of incorporation by reference,

(v) the imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*; and

(vi) other temporary measures authorized under section 19 of the *Emergencies Act* that are not yet known.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

A handwritten signature in red ink, appearing to be 'J. A. S.', is written over the certification text.

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

C.P. 2022-106
14 février 2022

Attendu que la gouverneure en conseil croit, pour des motifs raisonnables, qu'il se produit un état d'urgence justifiant en l'occurrence des mesures extraordinaires à titre temporaire;

Attendu que la gouverneure en conseil a, conformément au paragraphe 25(1) de la *Loi sur les mesures d'urgence*, consulté le lieutenant-gouverneur en conseil de chaque province, les commissaires du Yukon et des Territoires du Nord-Ouest agissant avec l'agrément de leur conseil exécutif respectif, et le commissaire du Nunavut, avant de faire la déclaration d'état d'urgence,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil ordonne que soit prise une proclamation :

a) déclarant qu'il se produit un état d'urgence dans tout le pays justifiant en l'occurrence des mesures extraordinaires à titre temporaire;

- 2 -

b) décrivant l'état d'urgence comme prenant la forme suivante :

(i) les blocages continus mis en place par des personnes et véhicules à différents endroits au Canada et les menaces continues proférées en opposition aux mesures visant à mettre fin aux blocages, notamment par l'utilisation de la force, lesquels blocages ont un lien avec des activités qui visent à favoriser l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens, notamment les infrastructures essentielles, dans le but d'atteindre un objectif politique ou idéologique au Canada,

(ii) les effets néfastes sur l'économie canadienne — qui se relève des effets de la pandémie de la maladie à coronavirus 2019 (COVID-19) — et les menaces envers la sécurité économique du Canada découlant des blocages d'infrastructures essentielles, notamment les axes commerciaux et les postes frontaliers internationaux,

(iii) les effets néfastes découlant des blocages sur les relations qu'entretient le Canada avec ses partenaires commerciaux, notamment les États-Unis, lesquels effets sont préjudiciables aux intérêts du Canada,

(iv) la rupture des chaînes de distribution et de la mise à disposition de ressources, de services et de denrées essentiels causée par les blocages existants et le risque que cette rupture se perpétue si les blocages continuent et augmentent en nombre,

(v) le potentiel d'augmentation du niveau d'agitation et de violence qui menaceraient davantage la sécurité des Canadiens;

.../3

- 3 -

c) indiquant que la gouverneure en conseil juge les mesures d'intervention ci-après nécessaires pour faire face à l'état d'urgence :

(i) des mesures pour réglementer ou interdire les assemblées publiques — autre que les activités licites de défense d'une cause, de protestation ou de manifestation d'un désaccord — dont il est raisonnable de penser qu'elles auraient pour effet de troubler la paix, les déplacements à destination, en provenance ou à l'intérieur d'une zone désignée, pour réglementer ou interdire l'utilisation de biens désignés, notamment les biens utilisés dans le cadre d'un blocage, et pour désigner et aménager des lieux protégés, notamment les infrastructures essentielles,

(ii) des mesures pour habiliter toute personne compétente à fournir des services essentiels ou lui ordonner de fournir de tels services, notamment l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, de structures ou de tout autre objet qui font partie d'un blocage n'importe où au Canada, afin de pallier les effets des blocages sur la sécurité publique et économique du Canada, notamment des mesures pour cerner ces services essentiels et les personnes compétentes à les fournir, ainsi que le versement d'une indemnité raisonnable pour ces services,

- 4 -

(iii) des mesures pour habiliter toute personne à fournir des services essentiels ou lui ordonner de fournir de tels services afin de pallier les effets des blocages, notamment des mesures pour réglementer ou interdire l'usage de biens en vue de financer et d'appuyer les blocages, pour exiger de toute plateforme de sociofinancement et de tout fournisseur de traitement de paiement qu'il déclare certaines opérations au Centre d'analyse des opérations et déclarations financières du Canada et pour exiger de tout fournisseur de services financiers qu'il vérifie si des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne qui participe à un blocage,

(iv) des mesures pour habiliter la Gendarmerie royale du Canada à appliquer les lois municipales et provinciales au moyen de l'incorporation par renvoi,

(v) en cas de contravention aux décrets ou règlements d'application de l'article 19 de la *Loi sur les mesures d'urgence*, l'imposition d'amendes ou de peines d'emprisonnement,

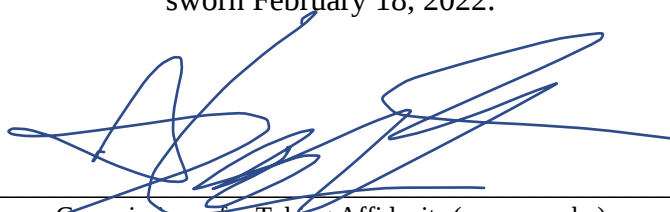
(vi) toute autre mesure d'intervention autorisée par l'article 19 de la *Loi sur les mesures d'urgence* qui est encore inconnue.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME



INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM

This is Exhibit "B" to the Affidavit of Simon Sigler
sworn February 18, 2022.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Commissioner for Taking Affidavits (or as may be)



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

P.C. 2022-107
February 15, 2022

Whereas the Governor in Council has, by a proclamation made pursuant to subsection 17(1) of the *Emergencies Act*, declared that a public order emergency exists;

And whereas the Governor in Council believes on reasonable grounds, that the regulation or prohibition of public assemblies in the areas referred to in these Regulations are necessary;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 19(1) of the *Emergencies Act*, makes the annexed *Emergency Measures Regulations*.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

C.P. 2022-107
15 février 2022

Attendu que la gouverneure en conseil a, par proclamation prise en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, déclaré qu'il se produit un état d'urgence;

Attendu que la gouverneure en conseil croit, pour des motifs raisonnables, qu'il est fondé de réglementer ou d'interdire des assemblées publiques dans les endroits visés,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 19(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil prend le *Règlement sur les mesures d'urgences*, ci-après.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM

Emergency Measures Regulations

Interpretation

1 The following definitions apply to these Regulations

Act means the *Emergencies Act* (*Loi*)

critical infrastructure means the following places, including any land on which they are located:

- (a) airports, aerodromes, heliports, harbours, ports, piers, lighthouses, canals, railway stations, railways, tramway lines, bus stations, bus depots and truck depots;
- (b) infrastructure for the supply of utilities such as water, gas, sanitation and telecommunications;
- (c) international and interprovincial bridges and crossings;
- (d) power generation and transmission facilities;
- (e) hospitals and locations where COVID-19 vaccines are administered;
- (f) trade corridors and international border crossings, including ports of entry, ferry terminals, customs offices, bonded warehouses, and sufferance warehouses. (*infrastructures essentielles*)

foreign national has the same meaning as in subsection 2(1) of the *Immigration and Refugee Protection Act* (*étranger*)

peace officer means a police officer, police constable, constable, or other person employed for the preservation and maintenance of the public peace (*agent de la paix*)

protected person has the same meaning as in subsection 95(2) of the *Immigration and Refugee Protection Act* (*personne protégée*)

Prohibition — public assembly

2 (1) A person must not participate in a public assembly that may reasonably be expected to lead to a breach of the peace by:

- (a) the serious disruption of the movement of persons or goods or the serious interference with trade;

Règlement sur les mesures d'urgences

Définitions

1 Les définitions qui suivent s'appliquent au présent règlement.

agent de la paix Tout officier de police ou agent de police employé à la préservation et au maintien de la paix publique. (*peace officer*)

étranger S'entend au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*. (*foreign national*)

infrastructures essentielles Les lieux ci-après, y compris le terrain sur lequel ils sont situés :

- a) les aéroports, aérodromes, héliports, havres, ports, gares maritimes, jetées, phares, canaux, gares ferroviaires et chemins de fer, terminus d'autobus et garages d'autobus ou de camions;
- b) les infrastructures servant à la fourniture de services publics tels que l'eau, le gaz, l'assainissement et les télécommunications;
- c) les ponts et les ouvrages de franchissement internationaux et interprovinciaux;
- d) les installations de production et de transmission d'énergie;
- e) les hôpitaux et les endroits où sont administrés les vaccins contre la COVID-19;
- f) les axes commerciaux et les postes frontaliers internationaux, y compris les points d'entrée, les bureaux de douanes, les entrepôts de stockage et les entrepôts d'attente. (*critical infrastructure*)

Loi La *Loi sur les mesures d'urgence*. (*Act*)

personne protégée S'entend au sens du paragraphe 95(2) de la *Loi sur l'immigration et la protection des réfugiés*. (*protected person*)

Interdiction — assemblée publique

2 (1) Il est interdit de participer à une assemblée publique dont il est raisonnable de penser qu'elle aurait pour effet de troubler la paix par l'un des moyens suivants :

(b) the interference with the functioning of critical infrastructure; or

(c) the support of the threat or use of acts of serious violence against persons or property.

Minor

(2) A person must not cause a person under the age of eighteen years to participate in an assembly referred to in subsection (1).

Prohibition — entry to Canada — foreign national

3 (1) A foreign national must not enter Canada with the intent to participate in or facilitate an assembly referred to in subsection 2(1).

Exemption

(2) Subsection (1) does not apply to

(a) a person registered as an Indian under the *Indian Act*;

(b) a person who has been recognized as a Convention refugee or a person in similar circumstances to those of a Convention refugee within the meaning of subsection 146(1) of the *Immigration and Refugee Protection Regulations* who is issued a permanent resident visa under subsection 139(1) of those regulations;

(c) a person who has been issued a temporary resident permit within the meaning of subsection 24(1) of the *Immigration and Refugee Protection Act* and who seeks to enter Canada as a protected temporary resident under subsection 151.1(2) of the *Immigration and Refugee Protection Regulations*;

(d) a person who seeks to enter Canada for the purpose of making a claim for refugee protection;

(e) a protected person;

(f) a person or any person in a class of persons whose presence in Canada, as determined by the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest.

a) en entravant gravement le commerce ou la circulation des personnes et des biens;

b) en entravant le fonctionnement d'infrastructures essentielles;

c) en favorisant l'usage de la violence grave ou de menaces de violence contre des personnes ou des biens.

Mineur

(2) Il est interdit de faire participer une personne âgée de moins de dix-huit ans à une assemblée visée au paragraphe (1).

Interdiction – entrée au Canada – étranger

3 (1) Il est interdit à l'étranger d'entrer au Canada avec l'intention de participer à une assemblée visée au paragraphe 2(1) ou de faciliter une telle assemblée.

Exemption

(2) Le paragraphe (1) ne s'applique pas aux personnes suivantes :

a) une personne inscrite à titre d'Indien sous le régime de la *Loi sur les Indiens*;

b) la personne reconnue comme réfugié au sens de la Convention, ou la personne dans une situation semblable à celui-ci au sens du paragraphe 146(1) du *Règlement sur l'immigration et la protection des réfugiés*, qui est titulaire d'un visa de résident permanent délivré aux termes du paragraphe 139(1) de ce règlement;

c) la personne qui est titulaire d'un permis de séjour temporaire au sens du paragraphe 24(1) de la *Loi sur l'immigration et la protection des réfugiés* et qui cherche à entrer au Canada à titre de résident temporaire protégé aux termes du paragraphe 151.1(2) du *Règlement sur l'immigration et la protection des réfugiés*;

d) la personne qui cherche à entrer au Canada afin de faire une demande d'asile;

e) la personne protégée;

f) sa présence au Canada est, individuellement ou au titre de son appartenance à une catégorie de personnes, selon ce que conclut le ministre de la Citoyenneté et de l'Immigration ou le ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national.

Travel

4 (1) A person must not travel to or within an area where an assembly referred to in subsection 2(1) is taking place.

Minor — travel near public assembly

(2) A person must not cause a person under the age of eighteen years to travel to or within 500 metres of an area where an assembly referred to in subsection 2(1) is taking place.

Exemptions

(3) A person is not in contravention of subsections (1) and (2) if they are

- (a)** a person who, within of the assembly area, resides, works or is moving through that area for reasons other than to participate in or facilitate the assembly;
- (b)** a person who, within the assembly area, is acting with the permission of a peace officer or the Minister of Public Safety and Emergency Preparedness;
- (c)** a peace officer; or
- (d)** an employee or agent of the government of Canada or a province who is acting in the execution of their duties.

Use of property — prohibited assembly

5 A person must not, directly or indirectly, use, collect, provide make available or invite a person to provide property to facilitate or participate in any assembly referred to in subsection 2(1) or for the purpose of benefiting any person who is facilitating or participating in such an activity.

Designation of protected places

6 The following places are designated as protected and may be secured:

- (a)** critical infrastructures;
- (b)** *Parliament Hill* and the *parliamentary precinct* as they are defined in section 79.51 of the *Parliament of Canada Act*;
- (c)** official residences;
- (d)** government buildings and defence buildings
- (e)** any property that is a building, structure or part thereof that primarily serves as a monument to honour persons who were killed or died as a consequence

Déplacements

4 (1) Il est interdit de se déplacer à destination ou à l'intérieur d'une zone où se tient une assemblée visée au paragraphe 2(1).

Déplacements à proximité d'une assemblée publique – mineur

(2) Il est interdit de faire déplacer une personne âgée de moins de dix-huit ans, à destination ou à moins de 500 mètres de la zone où se tient une assemblée visée au paragraphe 2(1).

Exemptions

(3) Ne contrevient pas aux paragraphes (1) et (2) :

- a)** la personne qui réside, travaille ou circule dans la zone de l'assemblée, pour des motifs autres que de prendre part à l'assemblée ou la faciliter;
- b)** la personne qui, relativement à la zone d'assemblée, agit avec la permission d'un agent de la paix ou du ministre de la Sécurité publique et de la Protection civile;
- c)** l'agent de la paix;
- d)** l'employé ou le mandataire du gouvernement du Canada ou d'une province qui agit dans l'exercice de ses fonctions.

Utilisation de biens – assemblée interdite

5 Il est interdit, directement ou non, d'utiliser, de réunir, de rendre disponibles ou de fournir des biens — ou d'inviter une autre personne à le faire — pour participer à toute assemblée visée au paragraphe 2(1) ou faciliter une telle assemblée ou pour en faire bénéficier une personne qui participe à une telle assemblée ou la facilite.

Désignation de lieux protégés

6 Les lieux suivants sont protégés et peuvent être aménagés :

- a)** les infrastructures essentielles;
- b)** la *cité parlementaire* et la *Colline parlementaire* au sens de l'article 79.51 de la *Loi sur le Parlement du Canada*;
- c)** les résidences officielles;
- d)** les immeubles gouvernementaux et les immeubles de la défense;
- e)** tout ou partie d'un bâtiment ou d'une structure servant principalement de monument érigé en l'honneur

of a war, including a war memorial or cenotaph, or an object associated with honouring or remembering those persons that is located in or on the grounds of such a building or structure, or a cemetery;

(f) any other place as designated by the Minister of Public Safety and Emergency Preparedness.

Direction to render essential goods and services

7 (1) Any person must make available and render the essential goods and services requested by the Minister of Public Safety and Emergency Preparedness, the Commissioner of the Royal Canadian Mounted Police or a person acting on their behalf for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.

Method of request

(2) Any request made under subsection (1) may be made in writing or given verbally by a person acting on their behalf.

Verbal request

(3) Any verbal request must be confirmed in writing as soon as possible.

Period of request

8 A person who, in accordance with these Regulations, is subject to a request under section 7 to render essential goods and services must comply immediately with that request until the earlier of any of the following:

- (a)** the day referred to in the request;
- (b)** the day on which the declaration of the public order emergency expires or is revoked; or
- (c)** the day on which these Regulations are repealed.

Compensation for essential goods and services

9 (1) Her Majesty in right of Canada is to provide reasonable compensation to a person for any goods or services that they have rendered at their request under section 7, which amount must be equal to the current market price for those goods or services of that same type, in the area in which the goods or services are rendered.

des personnes tuées ou décédées en raison d'une guerre — notamment un monument commémoratif de guerre ou un cénotaphe —, d'un objet servant à honorer ces personnes ou à en rappeler le souvenir et se trouvant dans un tel bâtiment ou une telle structure ou sur le terrain où ceux-ci sont situés, ou d'un cimetière;

f) tout autre lieu désigné par le ministre de la Sécurité publique et de la Protection civile.

Ordre de fournir des biens et services essentiels

7 (1) Toute personne doit rendre disponibles et fournir les biens et services essentiels demandés par le ministre de la Sécurité publique et de la Protection civile, du commissaire de la Gendarmerie royale du Canada, ou la personne agissant en leur nom pour l'enlèvement, le remorquage et l'entreposage de véhicules, d'équipement, des structures ou de tout autre objet qui composent un blocage.

Modalités

(2) La demande faite au titre du paragraphe (1) peut être faite par écrit ou communiquée verbalement ou la personne agissant en son nom.

Demande verbale

(3) La demande verbale est confirmée par écrit dès que possible.

Période de validité

8 Quiconque fait l'objet d'une demande au titre de l'article 7 pour la fourniture de biens et de services essentiels est tenu de s'y conformer dans les plus brefs délais jusqu'à la première des dates suivantes :

- a)** la date indiqué à la demande;
- b)** la date de l'abrogation ou la cessation d'effet de la déclaration d'état d'urgence;
- c)** la date de l'abrogation du présent règlement.

Indemnisation pour les biens et services essentiels

9 (1) Sa Majesté du chef du Canada accorde une indemnité raisonnable à la personne pour les biens fournis et les services rendus à sa demande aux termes de l'article 7 dont le montant équivaut au taux courant du marché pour les biens et services de même type, dans la région où les biens ont été fournis ou où les services ont été rendus.

Compensation

(2) Any person who suffers loss, injury or damage as a result of anything done or purported to be done under these Regulations may make an application for compensation in accordance with Part V of the *Emergencies Act* and any regulations made under that Part, as the case may be.

Compliance — peace officer

10 (1) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance with these Regulations and with any provincial or municipal laws and allow for the prosecution for that failure to comply.

Contravention of Regulations

(2) In the case of a failure to comply with these Regulations, any peace officer may take the necessary measures to ensure the compliance and allow for the prosecution for that failure to comply

(a) on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both; or

(b) on indictment, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding five years or to both.

Coming into force

11 This Order comes into force on the day on which it is registered.

Indemnisation

(2) Toute personne qui subit des dommages corporels ou matériels entraînés par des actes accomplis, ou censés l'avoir été, en application du présent règlement peut, à cet égard, présenter une demande d'indemnisation conformément à la partie V de la *Loi sur les mesures d'urgence* et à ses règlements d'application, le cas échéant.

Application des lois

10 (1) En cas de contravention au présent règlement, tout agent de la paix peut prendre les mesures nécessaires pour faire observer le présent règlement ou toutes lois provinciales ou municipales et permettre l'engagement de poursuites pour cette contravention.

Pénalités

(2) Quiconque contrevient au présent règlement est coupable d'une infraction passible, sur déclaration de culpabilité :

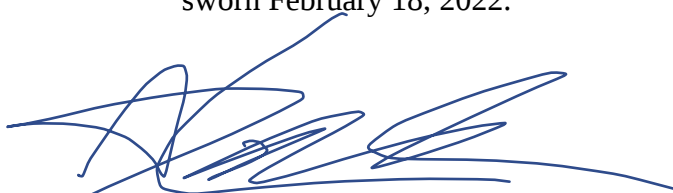
a) par procédure sommaire, d'une amende maximale de 500 \$ et d'un d'emprisonnement maximal de six mois, ou de l'une de ces peines;

b) par mise en accusation, d'une amende maximale de 5 000 \$ et d'un emprisonnement maximal de cinq ans, ou de l'une de ces peines.

Entrée en vigueur

11 Le présent règlement entre en vigueur à la date de son enregistrement.

This is Exhibit "C" to the Affidavit of Simon Sigler
sworn February 18, 2022.

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Commissioner for Taking Affidavits (or as may be)



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

P.C. 2022-108
February 15, 2022

Whereas the Governor in Council has, by a proclamation made pursuant to subsection 17(1) of the *Emergencies Act*, declared that a public order emergency exists;

And whereas the Governor in Council has reasonable grounds to believe that the measures with respect to property referred to in this Order are necessary;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to subsection 19(1) of the *Emergencies Act*, makes the annexed *Emergency Economic Measures Order*.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

C.P. 2022-108
15 février 2022

Attendu que la gouverneure en conseil a, par proclamation prise en vertu du paragraphe 17(1) de la *Loi sur les mesures d'urgence*, déclaré qu'il existe un état d'urgence;

Attendu que la gouverneure en conseil a des motifs raisonnables de croire que les mesures relatives aux biens prévues dans le présent décret sont fondées,

À ces causes, sur recommandation du ministre de la Sécurité publique et de la Protection civile et en vertu du paragraphe 19(1) de la *Loi sur les mesures d'urgence*, Son Excellence la Gouverneure générale en conseil prend le *Décret sur les mesures économiques d'urgence*, ci-après.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

INTERIM CLERK OF THE PRIVY COUNCIL—GREFFIÈRE DU CONSEIL PRIVÉ PAR INTÉRIM

Emergency Economic Measures Order

Definitions

1 The following definitions apply to this Order:

designated person means any individual or entity that is engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the *Emergency Measures Regulations*. (*personne désignée*)

entity includes a corporation, trust, partnership, fund, unincorporated association or organization or foreign state. (*entité*)

Duty to cease dealings

2 (1) Any entity set out in section 3 must, upon the coming into force of this Order, cease

(a) dealing in any property, wherever situated, that is owned, held or controlled, directly or indirectly, by a designated person or by a person acting on behalf of or at the direction of that designated person;

(b) facilitating any transaction related to a dealing referred to in paragraph (a);

(c) making available any property, including funds or virtual currency, to or for the benefit of a designated person or to a person acting on behalf of or at the direction of a designated person; or

(d) providing any financial or related services to or for the benefit of any designated person or acquire any such services from or for the benefit of any such person or entity.

Insurance policy

(2) Paragraph 2(1)(d) does not apply in respect of any insurance policy which was valid prior to the coming into force of this Order other than an insurance policy for any vehicle being used in a public assembly referred to in subsection 2(1) of the *Emergency Measures Regulations*.

Duty to determine

3 The following entities must determine on a continuing basis whether they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person:

Décret sur les mesures économiques d'urgence

Définitions

1 Les définitions qui suivent s'appliquent au présent décret :

entité S'entend notamment d'une personne morale, d'une fiducie, d'une société de personne, d'un fonds, d'une organisation ou d'une association dotée de la personnalité morale ou d'un État étranger. (*entity*)

personne désignée Toute personne physique ou entité qui participe, même indirectement, à l'une ou l'autre des activités interdites au titre des articles 2 à 5 du *Règlement sur les mesures d'urgence*. (*designated person*)

Obligations de cesser les opérations

2 (1) Dès l'entrée en vigueur du présent décret, les entités visées à l'article 3 doivent cesser :

a) toute opération portant sur un bien, où qu'il se trouve, appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions;

b) toute transaction liée à une opération visée à l'alinéa a) ou d'en faciliter la conclusion;

c) de rendre disponible des biens — notamment des fonds ou de la monnaie virtuelle — à une personne désignée ou à une personne agissant pour son compte ou suivant ses instructions, ou au profit de l'une ou l'autre de ces personnes;

d) de fournir des services financiers ou connexes à une personne désignée ou à son profit ou acquérir de tels services auprès d'elle ou à son profit.

Police d'assurance

(2) Toutefois, l'alinéa 2(1)d) ne s'applique pas à l'égard d'une police d'assurance effective — au moment de l'entrée en vigueur du présent décret — portant sur un véhicule autre que celui utilisé lors d'une assemblée publique visée au paragraphe 2(1) du *Règlement sur les mesures d'urgence*.

Vérification

3 Il incombe aux entités mentionnées ci-après de vérifier de façon continue si des biens qui sont en leur possession

(a) *authorized foreign banks*, as defined in section 2 of the *Bank Act*, in respect of their business in Canada, and banks regulated by that Act;

(b) cooperative credit societies, savings and credit unions and caisses populaires regulated by a provincial Act and associations regulated by the *Cooperative Credit Associations Act*;

(c) *foreign companies*, as defined in subsection 2(1) of the *Insurance Companies Act*, in respect of their insurance business in Canada;

(d) *companies, provincial companies and societies*, as those terms are defined in subsection 2(1) of the *Insurance Companies Act*;

(e) fraternal benefit societies regulated by a provincial Act in respect of their insurance activities and insurance companies and other entities regulated by a provincial Act that are engaged in the business of insuring risks;

(f) companies regulated by the *Trust and Loan Companies Act*;

(g) trust companies regulated by a provincial Act;

(h) loan companies regulated by a provincial Act;

(i) entities that engage in any activity described in paragraphs 5(h) and (h.1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*;

(j) entities authorized under provincial legislation to engage in the business of dealing in securities or to provide portfolio management or investment counselling services;

(k) entities that provide a platform to raise funds or virtual currency through donations; and

(l) entities that perform any of the following payment functions:

(i) the provision or maintenance of an account that, in relation to an electronic funds transfer, is held on behalf of one or more end users,

(ii) the holding of funds on behalf of an end user until they are withdrawn by the end user or transferred to another individual or entity,

(iii) the initiation of an electronic funds transfer at the request of an end user,

ou sous leur contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte :

a) les banques étrangères autorisées, au sens de l'article 2 de la *Loi sur les banques*, dans le cadre de leurs activités au Canada, et les banques régies par cette loi;

b) les coopératives de crédit, caisses d'épargne et de crédit et caisses populaires régies par une loi provinciale et les associations régies par la *Loi sur les associations coopératives de crédit*;

c) les sociétés étrangères, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*, dans le cadre de leurs activités d'assurance au Canada;

d) les sociétés, les sociétés de secours et les sociétés provinciales, au sens du paragraphe 2(1) de la *Loi sur les sociétés d'assurances*;

e) les sociétés de secours mutuel régies par une loi provinciale, dans le cadre de leurs activités d'assurance, et les sociétés d'assurances et autres entités régies par une loi provinciale qui exercent le commerce de l'assurance;

f) les sociétés régies par la *Loi sur les sociétés de fiducie et de prêt*;

g) les sociétés de fiducie régies par une loi provinciale;

h) les sociétés de prêt régies par une loi provinciale;

i) les entités qui se livrent à une activité visée aux alinéas 5h) et h.1) de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*;

j) les entités autorisées en vertu de la législation provinciale à se livrer au commerce des valeurs mobilières ou à fournir des services de gestion de portefeuille ou des conseils en placement;

k) les plateformes collaboratives et celles de monnaie virtuelle qui sollicitent des dons;

l) toute entité qui exécute l'une ou l'autre de fonctions suivantes :

(i) la fourniture ou la tenue d'un compte détenu au nom d'un ou de plusieurs utilisateurs finaux en vue d'un transfert électronique de fonds,

(iv) the authorization of an electronic funds transfer or the transmission, reception or facilitation of an instruction in relation to an electronic funds transfer, or

(v) the provision of clearing or settlement services.

(ii) la détention de fonds au nom d'un utilisateur final jusqu'à ce qu'ils soient retirés par celui-ci ou transférés à une personne physique ou à une entité,

(iii) l'initiation d'un transfert électronique de fonds à la demande d'un utilisateur final,

(iv) l'autorisation de transfert électronique de fonds ou la transmission, la réception ou la facilitation d'une instruction en vue d'un transfert électronique de fonds,

(v) la prestation de services de compensation ou de règlement.

Registration requirement — FINTRAC

4 (1) The entities referred to in paragraphs 3(k) and (l) must register with the Financial Transactions and Reports Analysis Centre of Canada established by section 41 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* if they are in possession or control of property that is owned, held or controlled by or on behalf of a designated person.

Reporting obligation — suspicious transactions

(2) Those entities must also report to the Centre every financial transaction that occurs or that is attempted in the course of their activities and in respect of which there are reasonable grounds to suspect that

(a) the transaction is related to the commission or the attempted commission of a money laundering offence by a designated person; or

(b) the transaction is related to the commission or the attempted commission of a terrorist activity financing offence by a designated person.

Reporting obligation — other transactions

(3) Those entities must also report to the Centre the transactions and information set out in subsections 30(1) and 33(1) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations*.

Duty to disclose — RCMP or CSIS

5 Every entity set out in section 3 must disclose without delay to the Commissioner of the Royal Canadian Mounted Police or to the Director of the Canadian Security Intelligence Service

(a) the existence of property in their possession or control that they have reason to believe is owned, held or controlled by or on behalf of a designated person; and

Inscription obligatoire — Centre

4 (1) Les entités visées aux alinéas 3k) et l) doivent s'inscrire auprès du Centre d'analyse des opérations et déclarations financières du Canada constitué par l'article 41 de la *Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes* s'ils ont en leur possession un bien appartenant à une personne désignée ou détenu ou contrôlé par elle ou pour son compte ou suivant ses instructions.

Opérations douteuses

(2) Elles doivent également déclarer au Centre toute opération financière effectuée ou tentée dans le cours de ses activités et à l'égard de laquelle il y a des motifs raisonnables de soupçonner qu'elle est liée à la perpétration — réelle ou tentée — par à une personne désignée :

a) soit d'une infraction de recyclage des produits de la criminalité;

b) soit d'une infraction de financement des activités terroristes.

Autres opérations

(3) Elles doivent également déclarer au Centre les opérations visées aux paragraphes 30(1) ou 33(1) du *Règlement sur le recyclage des produits de la criminalité et le financement des activités terroristes*.

Obligation de communication à la GRC et au SCRC

5 Toute entité visée à l'article 3 est tenue de communiquer, sans délai, au commissaire de la Gendarmerie royale du Canada ou au directeur du Service canadien du renseignement de sécurité :

a) le fait qu'elle croit que des biens qui sont en sa possession ou sous son contrôle appartiennent à une personne désignée ou sont détenus ou contrôlés par elle ou pour son compte;

(b) any information about a transaction or proposed transaction in respect of property referred to in paragraph (a).

Disclosure of information

6 A Government of Canada, provincial or territorial institution may disclose information to any entity set out in section 3, if the disclosing institution is satisfied that the disclosure will contribute to the application of this Order.

Immunity

7 No proceedings under the *Emergencies Act* and no civil proceedings lie against an entity for complying with this Order.

Coming into force

8 This Order comes into force on the day on which it is registered.

b) tout renseignement portant sur une transaction, réelle ou projetée, mettant en cause des biens visés à l'alinéa a).

Communication

6 Toute institution fédérale, provinciale ou territoriale peut communiquer des renseignements au responsable d'une entité visée à l'article 3, si elle est convaincue que les renseignements aideront à l'application du présent décret.

Immunité

7 Aucune poursuite en vertu de la *Loi sur les mesures d'urgence* ni aucune procédure civile ne peuvent être intentées contre une entité qui se conforme au présent décret.

Entrée en vigueur

8 Le présent décret entre en vigueur à la date de son enregistrement.



Court File No.: T-306-22

FEDERAL COURT

CANADIAN FRONTLINE NURSES AND KRISTEN NAGLE

Applicants

and

ATTORNEY GENERAL OF CANADA

Respondent

APPLICATION UNDER SECTIONS 18 AND 18.1 OF THE *FEDERAL COURTS ACT*

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at 180 Queen Street West, Suite 200, Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

February 18, 2022

Issued by: _____

Address of local office:

180 Queen Street West, Suite 200
Toronto, ON M5V 3L6

TO: **THE ADMINISTRATOR**
Federal Court

AND TO: **THE ATTORNEY GENERAL OF CANADA**
Ontario Regional Office
Department of Justice Canada
120 Adelaide Street West, Suite 400
Toronto, Ontario M5H 1T1

Telephone: 416-973-0942

Fax: 416-954-8982

Email: AGC_PGC_TORONTO.LEAD-DCECJ@JUSTICE.GC.CA

(service to be effected by filing with the Registry pursuant to s. 133 of the *Federal Court Rules* and s. 48 of the *Federal Courts Act*)

Application

1. This is an application for judicial review in respect of the Order in Council PC Number: 2022-106 proclamation of a public order emergency issued February 14, 2022 (the “Public Order Emergency Proclamation”) pursuant to subsection 17(1) of the *Emergencies Act*, RSC 1985, c 22 (4th Supp) (the “*Emergencies Act*”).

The applicant makes application for:

2. An Order, pursuant to Rule 317 of the *Federal Courts Rules* for production of all Orders in Council, minutes of meetings, cabinet submissions, memoranda, agreements and constituting documents relating to the Public Order Emergency Proclamation.
3. A declaration that the Respondent acted without jurisdiction or acted beyond its jurisdiction in issuing the Public Order Emergency Proclamation.
4. A declaration that the Public Order Emergency Proclamation violates the *Canadian Bill of Rights*, SC 1960, c 44 (the “*Canadian Bill of Rights*”), including the right of enjoyment of property and the right not to be deprived thereof except by due process of law.
5. A declaration, pursuant to section 52 of the *Constitution Act 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982 c 11 (the “*Constitution Act 1982*”), that the Public Order Emergency Proclamation is inconsistent with section 2 of the *Charter of Rights and Freedoms* and not justified under section 1 of *Charter*.
6. A declaration that the Public Order Emergency Proclamation is unlawful and/or invalid.

7. An interim stay of the Public Order Emergency Proclamation and any regulations, orders or other measures issued or implemented pursuant to the Public Order Emergency Proclamation until this Application is heard on its merits.
8. An Order quashing the Public Order Emergency Proclamation and any regulations, orders, or other measures issued or implemented pursuant to the Public Order Emergency Proclamation.
9. Leave or an Order pursuant to Rule 302, if required, for this application for judicial review to include any regulations, orders, or other measures issued or implemented pursuant to the Public Order Emergency Proclamation, including, but not limited to, P.C. 2022-107, the *Emergency Measures Regulations* and P.C. 2022-108, the *Emergency Economic Measures Order*.
10. A writ of prohibition prohibiting the Respondent from issuing further public order emergency proclamations in the absence of a “public order emergency” as defined in the *Emergencies Act*, which definition is not met in the current circumstances.
11. Costs of this Application on a substantial indemnity basis or in an amount that provides full indemnity.
12. Such further and other relief as this Honourable Court deems just.

The grounds for the application are:

The parties to this Application

13. The Applicant, Canadian Frontline Nurses (“CFN”), is a not-for-profit corporation duly incorporated under the *Canada Not-for-profit Corporations Act*. CFN is a proud advocate of medical freedom and its mission is to unite nurses across Canada, educate the public and ensure that Canadian healthcare reflects the highest ethical standards.

14. The Applicant, Kristen Nagle (“Nagle”) is a Canadian citizen residing in Ontario.

15. Nagle is a registered nurse and a member and director of CFN.

16. CFN and Nagle are opposed to unreasonable COVID-19 related mandates and restrictions that have been implemented by various levels of Canadian governments.

17. The Respondents are the Governor in Council, the Privy Council, and Her Excellency the Governor General in Council, all acting on behalf of Her Majesty the Queen (in right of Canada), and all represented by the named Respondent, the Attorney General of Canada.

Background: The Applicants’ Participation in The Freedom Convoy 2022 Protests in Ottawa

18. Starting on January 22, 2022, convoys of vehicles began to form and travel towards Ottawa. Ultimately, several convoys across Canada formed and thousands of vehicles converged on Ottawa on or about January 28, 2022, and the days that followed in support of what has been described and known as the “Freedom Convoy 2022 Protest”.

19. The Freedom Convoy 2022 Protest in Ottawa was ongoing as of the date of the Public Order Emergency Proclamation and continues as of the date of this Application.
20. The Freedom Convoy 2022 Protest in Ottawa is a peaceful demonstration based on the principles of unity and respect for all Canadians. One of the goals of the Freedom Convoy 2022 movement in Ottawa is to increase public awareness of the issues related to various levels of Canadian government implementation of COVID-19 mandates and restrictions, as well as to encourage these governments to repeal the divisive and unreasonable COVID-19 related mandates and restrictions.
21. The organizers of the Freedom Convoy 2022 movement have also called on the political class to refrain from indiscriminately labelling Canadian citizens with pejoratives, including allegations of racism and terrorism, given that this behaviour hinders open and respectful dialogue relating to the important issues which the Freedom Convoy 2022 Protest in Ottawa has raised. The objective of the Freedom Convoy 2022 is to end not only the divisiveness of the mandates and restrictions, but also the divisiveness which is engendered by the use of this type of language.
22. The Freedom Convoy 2022 Protest has increased the Canadian public's awareness with respect to the unreasonableness of government COVID-19 mandates and restrictions. It has shown other Canadians that there is a significant, dedicated movement of Canadians who oppose these measures. There has recently been a dramatic change in Canadian public opinion towards these mandates and restrictions as reflected in a January 31 Angus Reid poll that indicates that 54% of all Canadians want all COVID-19 restrictions to end. The Freedom Convoy 2022 Protest has played an instrumental role in changing Canadian public

opinion against the policies of the Trudeau government. The federal government, unlike the vast majority of jurisdictions both in Canada and around the world, has refused to commit to a timetable to eliminate restrictions and mandates and, in fact, has indicated an intention to impose even more. Recently, The Right Honourable Prime Minister of Canada, Justin Trudeau's ("Trudeau")("Prime Minister") approval ratings have dropped to near all-time lows.

23. CFN and Nagle support the right of all Canadians to assemble and engage in peaceful protest as a means of expressing their thoughts, beliefs, and opinions in a free and democratic society.

24. CFN is a participating group in the Freedom Convoy 2022. CFN and Nagle both support the Freedom Convoy 2022 Protest in Ottawa and its objectives. Nagle, as a representative of CFN, has given speeches in support of the Freedom Convoy 2022 Protest in Ottawa. CFN and Nagle have been and intend to continue to be peaceful participants and supporters of the Freedom Convoy 2022 Protest in Ottawa.

25. CFN and Nagle unequivocally do not support violence. CFN and Nagle denounce violence and do not view violence as a legitimate means of expression or as a means of achieving one's political ends. CFN and Nagle are not aware of any violence in connection with the Freedom Convoy 2022 Protest in Ottawa, nor is there any intention on the part of the Freedom Convoy 2022 for there to be any. The repeatedly stated goal of the Freedom Convoy 2022 Protest is for it to be peaceful and to ensure that it remains that way.

The Respondent Invokes the Emergencies Act to Suppress Political Dissent

26. The Prime Minister does not support the Freedom Convoy 2022 Protests or its goals and has decried its supporters. On January 26, 2022, Prime Minister Trudeau made the following statement:

We know that the way through this pandemic is by getting everyone vaccinated and the overwhelming majority close to ninety percent of Canadians have done exactly that. **The small fringe minority of people who are on their way to Ottawa, or who are holding unacceptable views that they're expressing, do not represent the views of Canadians** who have been there for each other who know that following the science and stepping up to protect each other is the best way to continue to ensure our freedoms, our rights, our values as a country. *[emphasis added]*

27. Prime Minister Trudeau has previously referred to individuals who choose not to get vaccinated as often being racist and misogynistic extremists. He has rhetorically asked whether these people “should be tolerated.”

28. On February 16, 2022 during question period, Prime Minister Trudeau, in response to a question by a Jewish MP and descendant of Holocaust survivors, accused the Conservatives of “standing with people who wave swastikas” because of their opposition to the invocation of the *Emergencies Act*.

29. The invocation of the *Emergencies Act* is improperly motivated by a design to target, threaten and punish individuals who have different views from that of the Prime Minister with respect to COVID-19 mandates and restrictions. The political emergency that the Prime Minister is subjectively experiencing because of the Freedom Convoy 2022 Protest’s effectiveness in reducing support for his government’s non-science based COVID-19

mandates and restrictions falls far short of constituting an actual national emergency as defined in the *Emergencies Act*.

30. The invocation of the *Emergencies Act* now threatens Freedom Convoy 2022 Protestors and their supporters (those who hold differing views from the Prime Minister with respect to COVID-19 restrictions and mandates which the Prime Minister has stated are “unacceptable”) with deprivation of the use of their financial assets without due process of law.
31. The Honourable David Lametti, Minister of Justice and Attorney General of Canada, labelled some of those who support the Freedom Convoy 2022 Protestors as members of “a pro-Trump movement” that are donating “hundreds of thousands and millions of dollars to this kind of thing”. The Minister of Justice has said such supporters “ought to be worried” about the bank freezing their accounts. The freezing of financial property without due process contrary to the *Canadian Bill of Rights* has already occurred.
32. The freezing of financial assets of those who hold differing viewpoints from that of the government in power is a hallmark of undemocratic, totalitarian regimes. The federal government’s actions in purporting to invoke the *Emergencies Act* have caused worldwide respect for Canadian democracy and freedom to be greatly diminished. They have reflected poorly on Canada’s stature in the international community and will undoubtedly call into question Canada’s ability to be a positive influence for Human Rights in the international community. The President of El Salvador has suggested that the Canadian government’s credibility with respect to democracy and freedom is now worth “zero.”

News reports and comedians in the United States and around the world have mocked the undemocratic and totalitarian steps the Trudeau government has taken to punish Canadians who hold views contrary to those of the Prime Minister. It is clear that the invocation of the *Emergencies Act* has much more to do with crushing and intimidating dissent than dealing with any “emergency”.

The Respondent Invokes the Emergencies Act

33. On February 14, 2022, the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, directed that a proclamation be issued directing that a public order emergency exists throughout Canada and necessitates the taking of special temporary measures for dealing with the emergency.

34. The Public Order Emergency Proclamation specifies the nature of the state of affairs constituting the alleged emergency as follows:

(i) the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,

(ii) the adverse effects on the Canadian economy — recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19) — and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,

(iii) the adverse effects resulting from the impacts of the blockades on Canada’s relationship with its trading partners, including the United States, that are detrimental to the interests of Canada,

(iv) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the risk that this breakdown will continue as blockades continue and increase in number, and

(v) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians

35. On February 15, 2022, the Governor General in Council issued P.C. 2022-107, the *Emergency Measures Regulations* and P.C. 2022-108, the *Emergency Economic Measures Order*, pursuant to the Public Order Emergency Proclamation.

36. Sections 2, 4, and 5 of *Emergency Measures Regulations* prohibit persons from, amongst other things:

- (a) Participating in or travelling to or within an area where “a public assembly that may reasonably be expected to lead to a breach of the peace” by causing a “serious disruption of the movement of persons or goods or the serious interference with trade”; and
- (b) Directly or indirectly, using, collecting, providing, making available or inviting a person to provide property to facilitate or participate in a public assembly that may reasonably be expected to lead to a breach of the peace by causing a serious disruption of the movement of persons or goods or the serious interference with trade.

37. The *Emergency Economic Measures Order* defines an individual or entity that is engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the *Emergency Measures Regulations* as a “designated person”. The *Emergency Economic Measures Order* requires financial institutions and entities to cease from:

- (a) dealing in any property, wherever situated, that is owned, held or controlled, directly or indirectly, by a designated person or by a person acting on behalf of or at the direction of that designated person;
- (b) facilitating any transaction related to a dealing referred to in paragraph (a);
- (c) making available any property, including funds or virtual currency, to or for the benefit of a designated person or to a person acting on behalf of or at the direction of a designated person; or
- (d) providing any financial or related services to or for the benefit of any designated person or acquire any such services from or for the benefit of any such person or entity.

38. On February 15, 2022, members of the Ottawa Police Service distributed leaflets titled “Ottawa Police Service Notice to Demonstration Participants” to participants in the Freedom Convoy 2022 Protest in Ottawa which set out, amongst other things, that:

You must leave the area now. Anyone blocking streets, or assisting others in the blocking streets, are committing a criminal offence and you may be arrested. You must immediately cease further unlawful activity or you will face charges.

...

The Federal Emergencies Act allows for the regulation or prohibition of travel to, from or within any specified area. This means that anyone coming to Ottawa for the purpose of joining the ongoing demonstration is breaking the law.

The Public Order Emergency Proclamation is Ultra Vires and Unreasonable

39. The state of affairs set out in the Public Order Emergency Proclamation does not constitute a national emergency or a public order emergency; the issuing of the Public Order Emergency Proclamation is unreasonable in the circumstances.

40. In issuing the Public Order Emergency Proclamation without satisfying the conditions set out in the *Emergencies Act*, the Respondent has acted beyond its lawful jurisdiction.

There is No National Emergency

41. Section 3 of the *Emergencies Act* defines a “national emergency” as:

an urgent and critical situation of a temporary nature that

- (a) seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it, or
- (b) seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada

and that cannot be effectively dealt with under any other law of Canada.

42. Section 16 of the *Emergencies Act* defines a “public order emergency” as meaning:

an emergency that arises from threats to the security of Canada and that is so serious as to be a national emergency

43. Section 16 of the *Emergencies Act* defines “threats to the security of Canada” as having the meaning assigned by section 2 of the *Canadian Security Intelligence Service Act*.
Section 2 of the *Canadian Security Intelligence Service Act* defines “threats to the security of Canada” as:

- (a) espionage or sabotage that is against Canada or is detrimental to the interests of Canada or activities directed toward or in support of such espionage or sabotage,
- (b) foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person,
- (c) activities within or relating to Canada directed toward or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political, religious or ideological objective within Canada or a foreign state, and
- (d) activities directed toward undermining by covert unlawful acts, or directed toward or intended ultimately to lead to the destruction or overthrow by violence of, the constitutionally established system of government in Canada,

but does not include lawful advocacy, protest or dissent, unless carried on in conjunction with any of the activities referred to in paragraphs (a) to (d).

44. There are no reasonable grounds to believe that an urgent and critical situation that seriously endangers the lives, health or safety of Canadians exists as a result of the Freedom Convoy 2022 Protest in Ottawa.
45. Even if there are reasonable grounds to believe that an urgent and critical situation that seriously endangers the lives, health or safety of Canadians exists, which there are not, the provinces are capable and have the authority to deal with such a situation.
46. There is no urgent or critical situation that seriously endangers the lives, health or safety of Canadians that cannot be effectively dealt with under the laws of Canada that were in force prior to the Public Order Emergency Proclamation.
47. At least seven Provincial premiers have expressed that they do not view the invocation of the *Emergencies Act* as being necessary and/or were not in favour of invoking the *Emergencies Act*, namely: Alberta Premier Jason Kenney, Saskatchewan Premier Scott Moe, Quebec Premier François Legault, Manitoba Premier Heather Stefanson, Nova Scotia Premier Tim Houston, New Brunswick Premier Blaine Higgs, and Prince Edward Island Premier Dennis King,
48. The situation at the Ambassador Bridge and the situation at the border near Coutts, Alberta, were effectively resolved prior to the Public Order Emergency Proclamation. CFN nor Nagle had a connection with those protests.

49. The Freedom Convoy 2022 Protest in Ottawa is a peaceful expression of dissent and does not constitute “a threat to the security of Canada” as defined in the *Canadian Security Intelligence Service Act*.

50. There are no reasonable grounds to believe that an urgent and critical situation that threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada exists. It does not appear that the Respondent asserts any.

The Public Order Emergency Proclamation is Inconsistent with the legislative intent of the Emergencies Act, the Bill of Rights and the Charter of Rights and Freedoms

51. The Public Order Emergency Proclamation is inconsistent with the scheme of the *Emergencies Act*, the object of the *Emergencies Act*, and the intention of Parliament at the time of the *Emergencies Act*'s drafting.

52. The *Emergencies Act* is expressly subject to the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights*, “particularly with respect to those fundamental rights that are not to be limited or abridged even in a national emergency.”

53. There are specific provisions contained within the *Emergency Economic Measures Order* which require financial institutions to deprive participants or supporters of those in the Freedom Convoy 2022 Protest of their property with a complete disregard for due process of law.

54. The Public Order Emergency Proclamation, and the regulations and orders that have been made pursuant thereto, are inconsistent with the *Canadian Bill of Rights*. In particular the

Public Order Emergency Proclamation, and the regulations and order that have flowed from same, infringe on the following fundamental rights and freedoms set out in the *Canadian Bill of Rights*:

- (a) the right of individuals not be deprived of enjoyment of property except by due process of law;
- (b) freedom of speech; and
- (c) freedom of assembly and association.

55. Section 2 of the *Canadian Bill of Rights* provides that the rights and freedoms recognized in the *Canadian Bill of Rights* are not to be abrogated, abridged or infringed in a law of Canada unless expressly declared by an Act of Parliament. The *Emergencies Act* does not contain a declaration that it shall be applied and construed to abrogate, abridge or infringe on the rights and freedoms recognized and declared in the *Canadian Bill of Rights*. Rather, it declares the opposite: the *Emergencies Act* is expressly subject to the rights and freedoms set out in the *Canadian Bill of Rights*.

56. The Public Order Emergency Proclamation, and the regulations and order that have been made pursuant thereto, also infringe upon individuals' rights to freedom of thought, belief, opinion and expression; freedom of peaceful assembly; and freedom of association guaranteed under section 2 of the *Charter of Rights and Freedoms*.

57. The Public Order Emergency Proclamation and the regulations and order that have made pursuant to this Proclamation are not reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

58. The Public Order Emergency Proclamation is aimed at dealing with what the Prime Minister primarily perceives to be a political emergency by unlawfully attempting to suppress and intimidate the expression of dissenting thoughts, beliefs and opinions of a segment of the Canadian population that the Prime Minister has declared to hold “unacceptable” views. The Proclamation is unlawful and *ultra vires* because there is no “national emergency” nor is there a “public order emergency.” It is also unlawful and *ultra vires* because, *inter alia*, it is a clear breach of the Bill of Rights because it purports to allow Canadians to be deprived of the enjoyment of their property without due process of law.

Rules and Legislation Relied Upon

59. The Applicants rely on the following statutory provisions and rules:

- (a) The *Emergencies Act*;
- (b) The *Canadian Security Intelligence Service Act*;
- (c) Paragraphs 1 (a), (b), (d), and (e) of the *Canadian Bill of Rights*;
- (d) Section 2 of the *Charter of Rights and Freedoms*;
- (e) Section 52 of the *Constitution Act 1982*;
- (f) Sections 18 through 18.4 of the *Federal Courts Act*, RSC 1985, c F-7;
- (g) Rules 3, 300-319, 334.1-334.40 of the *Federal Court Rules*, SOR/98-106; and
- (h) Such further and other statutory provisions and rules as counsel may advise.

This application will be supported by the following material:

- 60. The Affidavit of Kristen Nagle, to be sworn;
- 61. Hansard relating to the *Emergencies Act* R.S.C., 1985, c. 22 (4th Supp.); and
- 62. Such further and other material as counsel may advise and this Honourable Court may permit.

February 17, 2022



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SOR/2021-151, s. 22

Court File No.: T-306-22

FEDERAL COURT

BETWEEN:

**CANADIAN FRONTLINE NURSES
and KRISTEN NAGLE**

APPLICANTS/MOVING PARTIES

- and -

ATTORNEY GENERAL OF CANADA

RESPONDENT

**MOTION RECORD OF THE
APPLICANTS/MOVING PARTIES**

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